

Exhibit 4

VOLUME 11

Pages 2612 - 2905

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable YVONNE GONZALEZ ROGERS, Judge

EPIC GAMES, INC.,)	
)	
Plaintiff,)	NO. C-20-5640 YGR
)	
vs.)	Monday, May 17, 2021
)	
APPLE, INC.,)	Oakland, California
)	
Defendant.)	BENCH TRIAL
)	
APPLE, INC.,)	
)	
Counterclaimant,)	
vs.)	
)	
EPIC GAMES, Inc.,)	
)	
Counter-Defendant.)	
)	

REPORTER'S TRANSCRIPT OF PROCEEDINGS

APPEARANCES:

For Plaintiff: CRAVATH, SWAINE & MOORE, LLP
825 Eighth Avenue
New York, New York 10019
BY: KATHERINE B. FORREST, ESQUIRE
GARY A. BORNSTEIN, ESQUIRE
YONATAN EVEN, ESQUIRE
(Appearances continued.)

Reported By: Diane E. Skillman, CSR 4909, RPR, FCRR
Pamela Batalo-Hebel, CSR 3593, RMR, FCRR
Raynee Mercado, CSR 8258 RMR, CRR, FCRR

TRANSCRIPT PRODUCED BY COMPUTER-AIDED TRANSCRIPTION

For Plaintiff: CRAVATH, SWAINE & MOORE, LLP
825 Eighth Avenue

08:16:15 1 **MR. LO:** With respect to Professor Athey, Your Honor,
08:16:17 2 this was a question that was raised during examination.

08:16:21 3 Professor Athey gave certain opinions about what consumers
08:16:25 4 think or what consumers do. At the time of the objection, the
08:16:28 5 Court said you would consider whether there are factual
08:16:31 6 support for those types of statements essentially after the
08:16:34 7 facts have come in.

08:16:35 8 And now that Epic is either close or will be closing their
08:16:40 9 factual case, we are renewing that objection on the basis that
08:16:43 10 there have been no testimony on those underlying factors.

08:16:47 11 **THE COURT:** Okay. That probably requires more. So
08:16:50 12 what I would need, I think, to resolve that is the factual
08:17:01 13 basis for Epic's position. I don't know that I need a lot of
08:17:09 14 argument. What I need to know is where the factual basis
08:17:12 15 comes from.

08:17:14 16 **MR. BORNSTEIN:** Understood, Your Honor.

08:17:14 17 We would have, in our written submission, two other points
08:17:18 18 to make that I'll just foreshadow. One being the parties
08:17:21 19 reached a stipulation under which Apple agreed not to make the
08:17:26 20 argument that they are making right now. And the other being
08:17:29 21 that we believe that the opinions that are at issue in Apple's
08:17:35 22 objection here are proper under Rule 703 even as to facts that
08:17:41 23 are not admissible or admitted, but nevertheless within the
08:17:45 24 scope of facts on which an expert is permitted to rely under
08:17:50 25 the rule.

08:17:53 1 **THE COURT:** Okay. It doesn't sound like I need more
08:17:55 2 than four pages of briefing. And then I'll take a look at
08:18:02 3 what the factual basis is. And perhaps it also just means
08:18:06 4 that, as I will do with many of these things is, I need to
08:18:13 5 decide how much weight to give any opinion. And it could be
08:18:17 6 little to a lot.

08:18:19 7 So, okay. Just when you get it filed, I'll try to turn it
08:18:25 8 around.

08:18:26 9 **MR. BORNSTEIN:** Would Your Honor like those
08:18:28 10 simultaneously? If so, we can coordinate on a time.

08:18:31 11 **THE COURT:** That would be preferable. Thanks.

08:18:34 12 **MR. BORNSTEIN:** Thank you, Your Honor.

08:18:35 13 **MR. LO:** Thank you, Your Honor.

08:18:36 14 **THE COURT:** Okay. That's it from your side,
08:18:40 15 Ms. Forrest?

08:18:41 16 **MS. FORREST:** Yes, Your Honor.

08:18:43 17 **THE COURT:** Mr. Doren, how about from your side?

08:18:45 18 **MR. DOREN:** That is it from our side, Your Honor.

08:18:48 19 **THE COURT:** Okay. Then let's call Professor Mickens
08:18:53 20 back to the stand.

08:19:15 21 Good morning, Professor.

08:19:16 22 **THE WITNESS:** Good morning.

08:19:19 23 **THE COURT:** Our weather this weekend was not as warm
08:19:21 24 as it was the prior weekend, so -- but maybe that reminds you
08:19:26 25 of Massachusetts.